

DECISION

27095

**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-213877

DATE: December 22, 1983

MATTER OF: Lake Shore, Inc.

DIGEST:

GAO will not review affirmative responsibility determination except in limited circumstances not present here.

Lake Shore, Inc. protests the proposed award of a contract for a quantity of winches to Smatco, Inc. under Department of the Navy invitation for bids (IFB) No. N00024-83-B-4436. Lake Shore contends that Smatco has financial and quality control problems which should disqualify it from receiving the award. We dismiss the protest.

Whether Smatco's financial position and quality control procedures are sufficient concerns Smatco's responsibility as a prospective contractor, that is, its ability to satisfactorily perform the contract. A responsibility determination must be made by the contracting officer prior to award. Defense Acquisition Regulation § 2-407.2. Although it is not clear whether such a determination yet has been made here, our Office will not review a protest of an affirmative responsibility determination, which is largely a business judgment, unless there is a showing of possible fraud or bad faith or the solicitation contains definitive responsibility criteria which allegedly have not been applied. 4 C.F.R. § 21.3 (1983) as amended by 48 Fed. Reg. 1932, January 17, 1983; Bradford Dyeing Association, Inc., B-202241, March 6, 1981, 81-1 CPD 182. Neither exception applies here.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel

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